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DEPARTMENT OF STATE
Washington, D.C. 20520

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SECRET/NODIS

December 16, 1974

MEMORANDUM FOR: EA - Mr. Habib
L - Mr. Aldrich

Subject: Further U.S. Initiatives on the
U.S.-PRC Claims Assets Problem
(S/S 7424521)

We are informed by the Secretary's staff that he has reviewed your subject action memorandum and has acted on only one of the recommendations. The Secretary has approved your recommendation on page 5 of the memorandum "That our proposal include language defining 'nationals of the PRC'." He has also written on the memorandum "see me." EA and L are requested to coordinate with Mr. Lord and arrange an appointment with the Secretary's office to discuss this question further.

Samuel R. Gammon
Deputy Executive Secretary

cc: S
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E7 JWP DRAFT 9/25/74

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DEPARTMENT OF STATE
ACTION MEMORANDUM

7424521

S/S/PFR

December 13, 1974

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To: The Secretary
From: EA - Arthur W. Hummel, Jr. Aut
L - George H. Aldrich GWA

12/16
for Secto 7 7/4-12/12
Secy Tech action only
as shown on p.5

Further U.S. Initiatives on the US-PRC
Claims Assets Problem

+ write
"See inc."

As you requested in response to our memorandum of December 6 (Tab B), we have prepared a proposal (with two options on one issue) which could be presented to the Chinese if you decide that an early approach should be made. On the assumption that you would wish to discuss the matter yourself, e.g. with Huang Chen when he returns, we have put the proposal in the form of talking points (Tab A). If you wish, these could be recast in the form of a letter from you to Foreign Minister Ch'iao Kuan-hua.

Briefly, the proposal reflects the suggestion in our previous memorandum:

- On the third-country bank problem, again indicate our willingness to accept the offer which Chou made to you for the PRC to pay the USG about \$17 million.
- On the bondholders problem, reiterate our belief that this is not an issue.
- On the definition of claims to assets, which the PRC would assign to the USG, either offer new language which would meet our legal needs (our strong preference) or drop that effort and accept the consequences.

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In deciding when and how to reopen this subject with the Chinese, the following considerations are relevant:

- Settling the claims/assets problem would be an important symbolic step forward in our bilateral relations. Nevertheless, unless your discussions in Peking indicated otherwise, we continue to believe that the Chinese are not now prepared to settle this problem, regardless of what reasonable offers we make.
- If, as we believe, the Chinese will reject a proposal which we make now, reaching an agreement later would be more difficult, because the Chinese would not want to back away from positions they would have taken in rejecting our proposal.
- More generally, the proposals we have made in the past for settling this problem were reasonable ones. Making more concessions would tend to confirm the impression the Chinese may already have: if they stand firm, we will accommodate them. Giving this impression, whether on this or other issues, is not helpful to our overall relationship with the PRC.
- Therefore the best time to move on this matter is in the context of your next discussion with the Chinese on the further normalization of relations perhaps during the preparations for the President's trip to the PRC.
- We doubt that the settlement would in itself lead to additional forward movement in our trade and economic relations with the PRC, although it would remove an impediment to some steps if the Chinese decide they wish to move forward.

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- A proposal on claims/assets might be more attractive to the PRC if we could link it with an offer to start negotiating the extension of MFN to the PRC. At the present, we do not know if the Congress will pass the Trade Bill which would contain the necessary authorization. We therefore suggest that at a minimum we wait until we know what happens to the Trade Bill; if it passes, we could indicate to the Chinese a willingness to start simultaneously a discussion of MFN.
- For reasons explained in our earlier memorandum, we see no feasible alternative to persuading the Chinese to reactivate the \$17 million offer and to set aside the bondholders matter.
- On the problem of defining "nationals of the PRC," a settlement which does not include a satisfactory definition would not only give rise to various court cases involving about \$12 million which we would probably lose (with a resulting decrease in the amount available for distribution to the claimants), but also would likely be unacceptable to the claimants and to Congress, which must pass the implementing legislation.
- An early but unsatisfactory claims settlement would cause greater domestic controversy in the US than no settlement. We believe you would probably be subjected to personal criticism for approving such an agreement. Particularly if you decide not to continue to press for a satisfactory definition of "nationals of the PRC," we believe we should pave the way with Congress by consulting with key members of the Senate and House before approaching the Chinese.

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-- We must consult with Treasury before making another proposal. Once a settlement is reached, Treasury will have primary responsibility for implementing it, and will influence Congressional attitudes toward the settlement. If you decide not to press for a definition of "nationals of the PRC," we believe your personal intervention with Secretary Simon may be necessary to be sure of whole-hearted Treasury support, particularly with the Congress. We could draft a letter for this purpose.

We would welcome an opportunity to discuss this matter with you.

Recommendations:

-- That we defer making another proposal to the PRC until the matter can be discussed in the context of further normalization of relations

Approve _____

Disapprove _____

-- That you hold a meeting to discuss this matter.

Approve _____

Date and time _____

Disapprove _____

If you decide that we should make an early approach to the PRC:

-- That we defer a decision until we know what happens to the Trade Bill, in case we wish to link our proposals to an offer to start discussing MFN

Approve _____

Disapprove _____

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-- That our proposal include language defining "nationals of the PRC"

Approve

HAK *for Sat 7/14
12/15*

Disapprove

-- If you decide not to try to obtain such language, that we draft a letter to Secretary Simon to obtain Treasury concurrence

Approve

Disapprove

-- That we consult key members of Congress, outlining the settlement we hope to obtain.

Approve

Disapprove

Attachments:

Tab A - Talking Points

Tab B - December 6 Memorandum

Drafted:EA/PRCM:OVArmstrong:mfr
12/13/74:26300

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